

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BREE MCCLESKEY,
Plaintiff

v.

TOLTECA ENTERPRISES, INC.
D/B/A THE PHOENIX
RECOVERY GROUP, etal.,
Defendants

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CASE NUMBER: 1:20-cv-00166-ML

DEMAND FOR JURY TRIAL

PLAINTIFF’S RESPONSE TO DEFENDANT TOLTECA’S MOTION TO COMPEL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Now comes Plaintiff, Bree McCleskey (“Plaintiff” herein) and hereby responds to Tolteca Enterprises, Inc. DBA The Phoenix Recovery Group’s Motion to Compel Discovery and shows the Court as follows:

1. On December 28, 2020, Defendant Tolteca filed a Motion to Compel Discovery against Plaintiff (Dkt. 36).
2. On December 29, 2020, Defendant Tolteca filed an Advisory to the Court indicating that it would withdraw the Motion to Compel upon entry by the Court of a Confidentiality and Protective Order (Dkt. 37).
3. Although Plaintiff and Defendant filed a Joint Motion for Entry of Confidentiality and Protective Order on December 29, 2020 (Dkt. 38), the Court has not yet formally entered an order in that regard.

4. In light of the fact that today is the deadline for Plaintiff to respond to Tolteca's Motion to Compel Discovery (as per L.R. CV-7(e)(2)), Plaintiff now files this response out of an abundance of caution.

5. Although Plaintiff believes the Motion to Compel is effectively moot, in the unlikely event that the Court does not grant the Confidentiality and Protective Order, Plaintiff prays that the Court deny the Motion to Compel as moot and/or abate the seven day response deadline so as to enable Plaintiff to file a response to the Motion to Compel to the extent one is required under L.R. CV-7(e)(2).

Respectfully submitted,

/s/Brent A. Devere

Brent A. Devere

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Attorney for Plaintiff

Bree McCleskey

CERTIFICATE OF SERVICE

I, Brent A. Devere, certify that on January 4, 2021 a true and correct copy of the foregoing pleading was served by the ECF system of the Western District of Texas on the following parties:

Mr. Tom Clarke
8026 Vantage Dr., Suite 105
San Antonio, Texas 78230

/s/Brent A. Devere
Brent A. Devere